

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ALFRED FELICIANO,

Plaintiff,

v.

Civil Action No. 04-12461-GAO

GLOBALWARE SOLUTIONS, INC. and
GARY LORTIE,

Defendants.

and

GLOBALWARE SOLUTIONS, INC.,
and GARY LORTIE,

Third-Party Plaintiffs,

v.

JAMES R. BARTLETT,

Third-Party Defendant.

ASSENTED-TO MOTION TO RE-OPEN THIRD PARTY CLAIMS

The Third-Party Plaintiff GlobalWare Solutions, Inc. (“GWS”) in the above-captioned matter, through its counsel, hereby moves to re-open GWS’s third party claims against Third-Party Defendant James R. Bartlett (“Bartlett”). As grounds for this Motion, the parties state as follows:

1. This action was filed on November 22, 2004 by Plaintiff Alfred Feliciano (“Feliciano”) against Defendants GWS and Gary Lortie (“Lortie”).

2. GWS and Lortie filed counterclaims against Feliciano and filed third-party claims against Third-Party Defendant Bartlett.

3. The parties engaged in significant discovery and depositions.

4. Near the close of discovery, Plaintiff Feliciano and Defendants GWS and Lortie agreed to seek to resolve the matter through mediation. Third Party Defendant Bartlett was aware of the mediation but chose not to participate. The mediation was successful and the Plaintiff and Defendants have consummated their settlement. However, the third party claims by GWS against Bartlett were not resolved.

5. On November 1, 2006, counsel for GWS reported to the Court that the Plaintiff and Defendants had settled the primary claims (those claims in the Complaint and Counterclaim). However, that day, November 1, 2006, the Court issued an Electronic Settlement Order closing the *entire* case and allowing “any party, upon good cause shown, to reopen the action within 30 days [until Friday, December 1, 2006] if settlement is not consummated.” The Court granted the parties’ joint motion to extend this deadline to December, 14, 2006.

6. GWS and Bartlett have been unable to agree to terms of a voluntary stipulation of dismissal of the Complaint, Counterclaims and Lortie’s third party claims against Bartlett. Accordingly, contemporaneously with the filing of this motion, Feliciano, GWS and Lortie shall file a motion (the “Joint Motion”) seeking: (a) to dismiss the Complaint and Counterclaims with prejudice, (b) to dismiss Lortie’s third party claims against Bartlett without prejudice; and (c) an order that such dismissal shall have no prejudicial effect on GWS’s claims against Bartlett in this action or in any other litigation.

7. As GWS's third party claims against Bartlett have not been resolved by settlement, GWS respectfully requests that the Court reopen this matter with respect to GWS's third party claims against Bartlett.

8. Bartlett and Feliciano, through their counsel, acknowledge that GWS's third party claims against Bartlett have not been resolved and have assented to this motion (Bartlett, however, has not assented to the relief requested in the Joint Motion).

9. GWS submits that no party will be prejudiced by this motion as only those claims that have not been resolved by settlement will continue to proceed.

WHEREFORE, for the reasons stated herein, GWS respectfully requests that the Court grant this assented-to Motion and re-open GWS's third-party claims against Bartlett.

Respectfully submitted,

GLOBALWARE SOLUTIONS, INC. and
GARY LORTIE

By their attorneys,

/s/ Scott J. Connolly

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ASSENTED-TO:

ALFRED FELICIANO

By his attorneys,

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JAMES R. BARTLETT

By his attorneys,

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Dated: December 13, 2006

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on December 13, 2006.

/s/ Scott J. Connolly
Scott J. Connolly